
OLR Bill Analysis

sHB 5128

AN ACT CONCERNING CERTAIN REVISIONS TO THE COASTAL ZONE MANAGEMENT STATUTES.

SUMMARY:

This bill makes several changes to the Coastal Management Act (CMA). It:

1. adds to CMA's general goals and policies consideration of (a) private property owners' rights when developing, preserving, or using coastal resources and (b) the potential impact of a rise in sea level when planning coastal development (§ 1);
2. establishes a state policy to encourage long-term strategic realignment of certain coastal land development (§ 1);
3. requires a coastal site plan to include a topography-based assessment of the impact a rise in sea level will have on a proposed use or structure over its lifespan (§ 4);
4. requires a municipality, when reviewing a coastal site plan and the proposed activity's potential adverse impacts, to consider the site's vulnerability to a rise in sea level (§ 3); and
5. allows a municipality reviewing a coastal site plan to prevent certain building reconstruction after a casualty loss if it compensates the owner for doing so (§ 4).

The bill also makes technical and conforming changes.

EFFECTIVE DATE: October 1, 2012

§ 2 — DEFINITION OF RISE IN SEA LEVEL

The bill defines a "rise in sea level" as a rise in the surface level of state tidal and coastal water over a period of multiple years expressed

in terms of North American Vertical Data. It must be projected to occur either at (1) an average rate of at least 2.4 inches per decade or (2) a rate the energy and environmental protection commissioner determines according to the best available science.

§ 1 — COASTAL MANAGEMENT ACT POLICIES

The CMA provides policies for federal, state, and local agencies to follow when regulating development, facilities, and uses in the coastal boundary. The bill adds to these policies, encouraging the strategic realignment of development over several decades for coastal lands (1) likely to be lost from erosion or (2) containing structures subject to repetitive damage. (It does not define “strategic realignment.”)

By law, municipalities must consider CMA’s goals and policies when reviewing a coastal site plan to ensure that the proposed activity is consistent with applicable policies.

§ 4 — BUILDING RECONSTRUCTION

The law expressly provides that the CMA does not forbid reconstruction of buildings after a casualty loss (i.e., a property loss caused by an unexpected sudden event such as a hurricane or fire). But, the bill allows a municipal board or commission reviewing a coastal site plan to prevent such reconstruction if (1) a building is substantially damaged by coastal flooding or inundation after October 1, 2012, (2) the cost to restore it to its preexisting condition exceeds 50% of its fair market value before the damage, and (3) it is subsequently substantially damaged by coastal flooding or inundation. The bill permits the board or commission to consider the substantial damage and subsequent substantial damage when deciding whether to approve, modify, condition, or deny a building reconstruction application. A denied application is considered a taking and the town must compensate the owner.

BACKGROUND

Coastal Boundary

By law, the “coastal boundary” is the furthest inland of (1) the 100-year-frequency coastal flood zone, (2) a 1,000-foot setback from the

mean high-water mark, or (3) a 1,000-foot setback from the inland boundary of the tidal wetlands (CGS § 22a-94(b)).

Coastal Site Plan

The CMA requires towns to review coastal site plans for activities at least partially in the coastal boundary and landward of the mean high water mark. Plans are submitted to a town's zoning commission, planning commission, or zoning board of appeals, which must determine the acceptability of a proposed activity's potential adverse impacts on coastal resources and future water-dependent development activity. By law, the board or commission must (1) consider site characteristics such as the location and condition of coastal resources, (2) consider potential beneficial and adverse effects on coastal resources and future water-dependent development opportunities, and (3) follow all applicable CMA goals and policies and identify conflicts between them and the proposed activity (CGS § 22a-106).

Related Bills

SB 376 (File 282), favorably reported by the Environment Committee, requires a municipal zoning commission to find a coastal site plan for a shoreline flood erosion control structure to be consistent with applicable CMA policies under certain circumstances.

SB 351 (File 277), favorably reported by the Environment Committee, adds cemetery and burial grounds to the list of land uses that can be protected by structural solutions in the coastal boundary.

COMMITTEE ACTION

Environment Committee

Joint Favorable Substitute

Yea 19 Nay 10 (03/23/2012)